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DEPARTMENT FOR CA/FPP

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SUBJECT: FRAUD SUMMARY - GERMANY - SEPTEMBER 2008 TO FEBRUARY 2009

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IA. COUNTRY CONDITIONS: The Federal Republic of Germany is located in the heart of Europe. It is a member of the European Union, NATO, the EU's Schengen Agreement, and has been U.S. Visa Waiver Program country since 1986. Germany is considered a low fraud country and host government corruption is not an issue. However, because the embassy and consulates in Mission Germany handle NIV and IV cases involving over 160 nationalities, fraud awareness is vital. Due to the large number of third-country nationals residing in Germany and transiting the country, consular operations in Mission Germany can and do encounter a variety of document fraud. The international airports in Frankfurt, Munich, Berlin, Hamburg, Duesseldorf, Hannover, Cologne/Bonn and Stuttgart are also used for illegal migration to and through Germany.

Since the 1950s post-war boom, the German economy has been dependent on immigrant workers. Though many so-called "guest workers" returned to their home countries in South and Southeast Europe, many remained. This has resulted in Germany gradually changing from a country that accommodated guest workers to a country with regulated immigration. Repatriates of German descent, who for generations have been living in the states of the former Soviet Union, Romania and Poland, are also a major group of immigrants. Since the collapse of the communist systems they have been returning to Germany in increasing numbers.

There are 6,744,000 foreigners, almost nine percent of the population, living in Germany (2007). An additional 1.5 million people are naturalized Germans and 4.5 million are German descent repatriates. Approximately, 15 million people in Germany have an immigrant background, which the German Statistics Office defines among others as naturalized foreigners as well as children with one foreign parent. Among the foreigners, 1.7 million people are of Turkish citizenship, followed by Italians (528,000), Poles (384,000), Serbs and Montenegrins (330,000), Greeks (295,000), Croats, Russians, Austrians, Bosnians, Ukrainians, Portuguese, Spanish and others. Germany also houses over one million refugees.

As a result, citizenship and residence laws have also changed over time. In January 2000, a more liberal German citizenship law went into effect. A child born in Germany now automatically acquires German citizenship if one parent has been residing in Germany for at least eight years and has a valid "Right to Abode" permit, or has been in Germany for a minimum of three years and is in possession of an unlimited residence permit. If the child is eligible for other citizenships, at the age of eighteen, s/he must choose whether to remain a German citizen.

To become a German citizen, one generally has to be legally residing in Germany for 8 years and fulfilled certain conditions such as: a valid "Aufenthaltserlaubnis" or "Aufenthaltsberechtigung"; a livelihood-guarantee showing no recourse to social welfare or unemployment benefits (exceptions made for people under 23 years of age); adequate knowledge of the German language; take an oath to the German constitution; give up prior citizenship (although there are exceptions). Since September 2008, foreigners are also required to

answer 17 of 33 multiple choice questions correctly. Spouses and children can often be naturalized even if they have not been living in Germany for eight years. For spouses of German citizens, the couple must have been married for two years and the spouse resident in country for three years before the application can be made.

In early 2005, a new Immigration Law (Immigration Act) consolidated the previous five types of residency into two - the "Aufenthaltsgenehmigung" (limited Residency Permit) and the "Niederlassungserlaubnis" (unlimited Right to Abode). Both German and foreign nationals resident in Germany must register with local authorities and notify the government if they change residences.

The standard of living in Germany is high. The average gross monthly income in the 4th quarter 2008 of a full-time industry and service employee was approximately USD 4300 (EUR 3100). Wages vary by region and hourly wage earners also earn less.

In order to pursue paid employment, all foreigners who are not nationals of an EU member state or member of the European Economic Area, need a residence permit. EU citizens are generally exempt from this requirement, though citizens of some new EU member states may also require additional EU employment documentation. Non-EU nationals of certain countries (Tourist Visa Waiver) do not need a residence permit for stays of up to three months, provided they have a valid passport.

Labor migration is governed by the German Residence Act, the Ordinance governing residence and the Ordinance on the admission of foreigners for the purpose of taking up employment. The Residence Act establishes the principle that the employment and self-employment of foreigners are to be oriented on Germany's economic needs, taking into account the labor market situation and

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the need to reduce unemployment. A ban on recruiting foreign labor remains in effect for unskilled and less-skilled workers; even skilled workers will be granted work permits only in exceptional cases. On the other hand, conditions for highly skilled workers (i.e. engineers, software technicians) and their families has now been improved under the residence law. Self-employed persons may be granted permission to work if exceptional economic interest or special regional needs exist, if the planned business is expected to have a positive economic effect, if it has secure financing, and if it creates employment. Self-employed persons can be granted a settlement permit after three years if their business is successful and their livelihood is assured.

1B. NIV FRAUD: German posts process nationals of over 160 countries annually. On any given day, visa applicants hail from any continent and demonstrate varying degrees of compelling ties to Germany. The most common NIV fraud cases involve B1/B2 and H and L applications. Most typical fraud cases feature applicants who provide questionable documentation, such as fraudulent employment letters, invitation letters and bank statements.

Many of Mission Germany's H visa fraud cases involve Indian nationals. In most questionable H fraud cases we note common inconsistencies, such as non-existent U.S. business addresses, an unconvincing internet business presence, telephone numbers leading to non-personalized voice mailboxes or private individuals, businesses not registered with Dun and Bradstreet and Lexis-Nexis reports mirroring small companies operating from a home residence.

Frankfurt's FPU conducts daily random checks of NIV applicants. Frankfurt's NIV line officers have all participated in recent refresher fraud prevention training and all incoming line officers participate in one-on-one FPU training during their first weeks at post.

In 2006, alleged misuse of SOFA status by military members stationed in Germany was investigated by an Army CID Task Force. The reported misuse involved soldiers, many of them originally from West African countries, who brought family members to Germany to reside with them, even when these same family members lacked adequate documentation to establish eligibility for Immigrant Visas. FPU worked with the task force to determine to what extent suspect individuals may have sought and received visa, immigration or

passport benefits they were otherwise not entitled to. The investigation prompted a change in SOFA card issuance procedures in country. Now, all non U.S. citizen or lawful permanent resident SOFA recipients must have, at a minimum, an I-130 immigrant petition approved by USCIS or authorization from the host country government to remain in order to receive SOFA status and benefits. FPU works closely with USCIS in evaluating these petitions for possible fraud.

During this reporting period, twelve NIV cases were referred for FPU investigations. Some cases were generated through FPU random checks in Frankfurt. The majority of the cases were verification of travel documents, verification of residency as well "snitch letters" reporting potential immigrants. Two cases were H1B and L petitioners identified by KCC. Their report provided sufficient evidence to question the bona fides of the L petitioner. In the H1B case of George Ventures LLC, Lexis/Nexis indicated the corporate registration status was delinquent and the KCC memo indicated inconsistencies in number of employees and annual income. Applicants and petitioners were asked to provide additional documents. Additionally, Frankfurt FPU assisted its counterparts in Dakar and Florence and in verifying a German marriage certificate and German identity documentation. Furthermore, Frankfurt FPU enters all relevant data into the system for all lost/stolen passports with NIVs.

In early 2008, NIV units in Mission Germany noticed H1B applicants of Indian nationality asking for their original Notice of Action to be sent back to them after learning that their petition were revoked or were pending further investigation. In two cases a Hamburg c/o address was provided to the Munich NIV unit. Said address appears to be a shared student home and FPU noticed that the address has been the 'base' residence for some of our H1B clientele from India. This has not been observed so far during this reporting period.

Mission Germany returned a total of seven petition cases through KCC for possible revocation during the September - February period. Munich NIV returned 3 petitions, Berlin NIV returned 2, and Frankfurt NIV returned 2 petitions. Mission Germany coordinated fraud investigations on these petition cases utilizing the Mission's fraud tracker system, Lexis/Nexis report information and KCC company research.

During the reporting period, Munich sent three petitions for Indian Nationals applying for H1Bs to KCC for return to USCIS. All three cases involved fraudulent petitioners operating false companies out of residential areas and claiming to have several hundred employees.

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Berlin's fraud efforts from September to February continued to center on Indian H1-B visa applicants seeking employment in the IT sector. When a petitioning employer exhibits other fraud concerns such as residential addresses, poorly functioning websites and employee lists dominated by Indian nationals, Berlin aggressively examines wage reports, tax form signatures and other company management information. Two cases were sent back to KCC for return to USCIS. Both recommendations for revocation hinged on the petitioning employers' ability to offer positions in accordance with regulations. Similar to the last reporting period, these employers' wage reported as filed with state authorities showed significant volatility in wages paid to some employees. Using Frankfurt FPU analysis, Berlin compared these official wage reports to lists of employees and company officers that included dates of employment.

In the case of petitioner Pro Saamya, in the first quarter of 2008, the president of the company earned USD 40,846, while one programmer analyst earned over USD 50,000 and another programmer only earned USD 14,783. The uncertain visa and wage status of alleged employees of a second petitioner, Narsa Soft Inc., contributed heavily to the second revocation recommendation. The petitioner declared one employee on H1B status, while a CCD check showed the same employee held an F-1 student visa. The employee did not appear on the company wage reports to the state government. Post also discovered via CCD that two low-paid Narsa Soft employees had expired H-4 dependent spouses visas. The employees' husbands came in to work for other H1B petitioners. Neither the employee spouses nor their

principal applicant husbands had any subsequent visa issuances, so likely all four are out of status. Narsa Soft also exhibited wage volatility. Only three of its declared 19 employees in 2007 made over USD 50,000. One well paid employee, at USD 31,715, earned USD 3215 in the first quarter, USD 13,520 second, USD 12740 third, and only USD 2240 in the fourth quarter, demonstrating the extreme volatility in wages and contracts.

Berlin leveraged other fraud resources when working on these cases. The KCC FPU had noted for post that Narsa Soft had previously withdrawn an application at another post than supply requested information. The 2007 USCIS-CIS Fraud Intelligence Digest information about Narsa Soft listed a David Wagner as President and CEO, but his name did not appear in the company's 2007 wage report filings.

Earlier reported Frankfurt FPU investigations of questionable H1-B cases revealed a pattern of questionable labor contract activity by the petitioning companies. Most striking was the erratic payment of low wages, often concentrated in one month during the quarter while showing no wage payments in other months. Polygon Corporation apparently paid some employees as little as \$2,000. The petitioner for two applicants, Viraj LLC, claimed wages that, calculated as an average across 45 employees, amounted to \$6,633.57 per employee. One employer, Nihaki Systems, Inc., was the subject of a previous labor violation filed by Mission Chennai through KCC. Lastly, Ritham, Inc., the petitioner for three applicants, claimed a total of fifteen "contractors" on its payroll, but its quarterly tax returns indicated only three employees in three locations - two of whom earned \$4,200 in one month only during the quarter. The companies under scrutiny thus may be "benching" employees, and possibly not paying some employees at all.

In other areas of potential NIV fraud, Munich is monitoring a small trend in Interpol hits on German passports once reported as lost or stolen, but still being used by the bearer to apply for visas and travel. Police contacts have informed Munich that when a passport is recovered and returned to the owner, it should be removed from the lost/stolen listing, but this doesn't always happen.

¶C. IV FRAUD: Frankfurt is the only post in Mission Germany that processes Immigrant Visas. Like other posts, Frankfurt encounters document fraud that purports to establish family relationships or entitlements to labor certification. Marriage fraud continues to be an issue, particularly in conjunction with the large U.S. military community in Germany. The FPU performs regular random checks of IV applicants. During September 2008-February 2009, FPU received five referrals from the IV Unit. In two referrals FPU examined Iraqi documents which with the assistance of the newly acquired computer video microscope and was able to confirm the genuineness of the documents in question.

In one case of a U.S. military member trying to immigrate Cameroonian family members, post has sought the assistance of Yaounde FPU with document verification and requested DNA. The IV Unit and FPU work closely with USCIS Frankfurt since it adjudicates the I-130 petitions that constitute 70% of the IV workload.

¶D. DV FRAUD: During September-February, one DV fraud referral was received by FPU for confirmation of educational documents and police certificate from Ghana. The WAEC certificate was confirmed genuine; however, the DV beneficiary failed to qualify for the DV program as

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she lacked a passing grade in the required subject of English.

¶E. ACS AND U.S. PASSPORT FRAUD: Local police stations, the Federal Police and city authorities often ask for assistance in verifying suspect U.S. passport and/or U.S. identity documents. Mala fide travelers are often intercepted during screening at German borders and are either in possession of photo substituted U.S. passports or are imposters. German authorities routinely refer U.S. documents such as passports and driver's licenses to the ARSO-I to determine if they are possibly fraudulent or are being used by imposters.

Frankfurt's ACS Branch, in conjunction with the ARSO-I, also

conducts monthly fraud prevention training for passport agents from the DOD installations under the supervision of DOD's Integrated Management Command (IMCOM) for Europe. The most recent training sessions took place in April. Attendance at each class is between 10-15 military acceptance agents from Germany, Kosovo, Italy, the Netherlands, Belgium and Turkey. These training sessions focus on detecting fraudulent documents and observation of suspicious behavior of military passport/CRBA applicants. The ACS Section and the ARSO-I also just completed document review and fraud training at the annual Heidelberg Conference in May, which is sponsored by IMCOM and SIA for the processing of official passport applications. There were 55 attendees at the conference, mostly from Europe, but some acceptance agents came from as far away as Okinawa, Japan.

From September 2008-April 2009, Frankfurt ACS referred 23 suspect citizenship/passport applications to the ARSO-I, 13 of which are currently being investigated. Examples of these complex fraud cases include delayed birth registration by a midwife on the Mexican border, paternity claimed by a quadriplegic, and a Middle-Eastern applicant with three different dates of birth. By taking the lead on the numerous passport/citizenship fraud referrals and assisting with in-depth fraud training of military acceptance agents, the ARSO-I has provided the Frankfurt ACS Branch with a sense of security regarding the integrity of the system.

Munich refused two CRBA applications submitted by an American citizen step-father posing as the child's biological father. An irregular version of the German birth certificates in this case prompted the section to investigate with the local Registration Office (Standesamt).

1F. ADOPTION FRAUD: The Frankfurt Immigrant Visa Unit issues 5 IR-3 and no IR-4 cases from September 2008 to February 2009.

Germany is a receiving country for international adoption. The number of foreign adoptions by Germans has increased due to a lack of children available locally for adoption. Foreign national children automatically acquire German citizenship once adopted by German nationals. There is no centralized court system governing adoption cases in Germany. This means that each Federal State is locally responsible for the effectiveness and legality of the adoption. Adoptive parents must be 25 years of age (though one may be 21 if part of a couple) and declared "fit" for work. Adoption agencies and the German Youth Welfare Department ("Jugendamt") require the following documents at the start of the adoption process: an application for adoption; birth certificates; marriage certificate; divorce certificates if applicable; resume/curriculum vitae for both parents; police certificates; medical attestations; proof of citizenship; earning/bank statements; and character references. After an investigation and interview, the Jugendamt issue an initial approval valid for two years. A one year foster period is required prior to full adoption. The paperwork/investigation process generally takes between four and nine months. Germany is a signatory to the Hague Convention on Inter Country Adoption, so for international adoptions, prospective adoptive parents would have to follow the Hague procedures, including using an adoption provider certified under the Hague.

1G. USE OF DNA TESTING: Due to the high number of third-country applicants, the IV Unit occasionally requests DNA testing for cases where identity and birth records are lacking. USCIS Frankfurt reports it is increasingly requesting DNA testing in similar circumstances. In the past six months, ACS has also requested DNA testing to establish paternity in two citizenship adjudications. There are no operational concerns.

1H. ASYLUM AND OTHER DHS BENEFIT FRAUD: Germany has not encountered any significant fraud with regard to Visas 92/93 cases or other DHS benefit fraud. The Immigrant Visa Unit had one Visas 92 and no Visas 93 cases from September 2008 through February 2009.

The Frankfurt FPU works closely with DHS/CIS and also assists in document examination and verification. Frankfurt FPU often assists DHS/CIS colleagues in the U.S. in verifying German documents (i.e. vital documents, school documents) and prior residence status. The most recent inquiry from DHS/CIS was to verify a birth certificate which FPU was able to confirm its bona fide.

II. ALIEN SUMGGLING, TRAFFICKING, ORGANIZED CRIME, TERRORIST TRAVEL:

In May 2009, the Federal Minister of the Interior, Wolfgang Schaeuble, and the president of the Federal Office for Protection of the Constitution, Fromm, presented the Protection of the Constitution Report ("Verfassungsschutzbericht") for 2008. As in previous years, the current security situation remains the same. The threat of Islamist terrorism continues, although there have been no attacks in Germany so far. The rise of force within right-wing extremist groups also continues to be reported as a cause for concern.

Germany ranks as a Tier 1 country on the 2008 Trafficking in Persons Report. Germany is a transit and destination country for men and women trafficked for the purposes of commercial sexual exploitation and forced labor, including in the construction industry, in restaurants and ice cream parlors, and as domestic servants. Victims are primarily trafficked from Central and Eastern Europe and Nigeria to and through Germany to the United Kingdom and Scandinavian countries. German nationals are also victims of commercial sexual exploitation within Germany. German nationals traveled to Thailand, Vietnam, and other countries for the purposes of child sex tourism.

IIJ. DS CRIMINAL FRAUD INVESTIGATIONS: Frankfurt's H/L funded ARSO-I program is six months old and growing quickly. Christian Shults works directly with consulate, Washington, U.S. military and host government authorities to counter fraud, further enhancing both DS and CA's ability to interdict criminal activity. The newly arrived DHS/ICE Visa Security Unit (VSU) officer is also active in reviewing NIV and IV cases. All three visa security components in Frankfurt work closely together and with other agencies on issues related to border security and fraud. Frankfurt will also be home to a USCIS Fraud Detection and National Security (FNDS) analyst in future.

IIK. HOST COUNTRY PASSPORT, IDENTITY DOCUMENTS, AND CIVIL REGISTRY:

Passport (ePass): Germany's biometric passport, called "ePass," was introduced in November 2005. The passport stores the bearer's identity data, sex, nationality, document serial number, issuing country, document type and the date of expiration. A second generation 'ePass' was introduced on November 1, 2007 and also includes two fingerprints and a passport number composed of nine alphanumeric digits. As a rule, electronic passports including fingerprints are issued to persons aged 12 and older. However, at the parents' request, an ePass may also be issued to children, although no fingerprints are taken from children under six years of age. Passports issued to persons aged 24 and older remain valid for ten years. Passports of persons under 24 are valid for six years. All pre-ePass passports remain valid until their expiration.

Temporary Passport: Germany's Temporary Passport is machine readable and is valid up to one year; however, there are no biometric markers. Passport agencies may require documents such as airline tickets as proof of the immediate need. DHS had determined that as of May 1, 2006 German temporary/emergency passports are no longer valid for travel to the United States under the Visa Waiver Program due to inadequate controls over the passport book stock and less-than-timely reporting of lost/stolen temporary passports to a central authority that would make the information available to CBP Officers at U.S. ports of entry.

Documentary requirements for ePass and Temporary Passports: Passport applicants must present a previous passport, children's passport, identity card or their birth certificate at the time of application.

Children's Passport: Germany's Children's Passports (Kinderreisepasse, Kinderpass) are machine readable and contain a digital photograph, but they do not have an electronic chip. The passport can be obtained up to the age of 12 and is valid for six years. As of November 1, 2007, children are no longer endorsed in their parents' passport. The Child Passport is not valid for use in the Visa Waiver program. This frequently causes problems for traveling families as they try to board flights going visa waiver.

The child will have to apply for an NIV or get a regular e-passport.

Documentary Requirements for Children's Passports: In order to obtain a Children's passport, parents or guardians must present a previous passport, the previously issued Child Travel Document (Kinderausweis) or birth certificate, and (declaration of) consent of the legal guardian. In case of only one legal guardian then that person must present proof of the right to custody.

Identity Cards: All persons aged 16 and over can obtain an ID card. Since November 2007, ID cards are also available for all children irrespective of their age, for travel within the European Union. ID cards issued to persons aged 24 and older are valid for ten years.

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Identity cards issued to person under 24 are valid for six years.

In November 2010, Germany plans to introduce a new electronic personal identification card ("Elektronischer Personalausweis") to replace the current ID card. The electronic ID card will be in the form a credit card and its main feature is an integrated chip storing the ID card data. This will also allow the bearer to securely identify him/herself in the internet (i.e., for bank transactions).

ID Card Documentary Requirements: An old Child Travel Document (Kinderausweis), Children's Passport or birth certificate and declaration of consent of the legal guardian; if there is only one legal guardian that person has to present proof of the right to custody.

If an identity document (IDs, passports) is lost/stolen in Germany, residents should report the loss to the local town hall and police. The police then enter the document into a nationwide police lookout system (Sachfahndung). Lost passports and ID cards should also be reported to the responsible passport office. Any ID document reported lost, but then found, should also be re-reported as found.

IL. COOPERATION WITH HOST GOVERNMENT AUTHORITIES: The Consular Sections in Frankfurt, Berlin, and Munich have established close working relationships with the German Federal Police, Customs, Airport authorities and city officials. German authorities have been very cooperative with document verification requests. It is sometimes difficult to request basic data for Visas Viper purposes from German law enforcement authorities due to the German privacy laws, but Mission elements work together to get appropriate information.

Germany and the United States are moving closer to a bilateral agreement on increasing cooperation on fighting serious crime. Germany and the U.S. plan to expand their information sharing in order to ensure effective prevention and prosecution of serious crime, especially terrorism. The agreement allows suspects' personal data to be transmitted in accordance with applicable national law, in certain cases even without being requested, if there are reasonable grounds to believe that the suspects may commit terrorist acts or crimes related to terrorism, or that they are or have been engaged in training to carry out terrorist acts. The agreement also creates a basis for the automated exchange of fingerprint and DNA data using a hit/no hit procedure modeled on the Pruem Treaty which was signed by several European Member States in 2005. In June 2008, the Federal Cabinet authorized the signing of the agreement. This followed a March 2008 meeting between the German Federal Justice and Federal Interior Ministers and the U.S. Attorney General and Secretary of Homeland Security. Since German law regarding the right to privacy differs from U.S. law, both sides are proceeding carefully in order to make the agreement workable.

IM. AREAS OF PARTICULAR CONCERN:

In late 2007, nine countries joined Schengen. These are Estonia, Latvia, Lithuania, Poland, Czech Republic, Slovakia, Hungary, Slovenia and Malta. Checks at internal borders (land and sea) stopped on December 21, 2007 and checks at international

airports for flights between these new member states were discontinued as of March 30, 2008. The lifting of border formalities between Germany and its neighboring countries has led to a slight rise in illegal immigration in Germany.

IN. STAFFING AND TRAINING: The Fraud Prevention Unit in Frankfurt has coordination responsibilities for all consular posts in Mission Germany. The FPU consists of three full time LES positions. Frankfurt's Visa Branch Chief serves as the Fraud Prevention Manager (FPM). In 1998, the senior LES attended CA/FPP's Fraud Investigator Course at ILEA in Budapest/Hungary. In the past months, both junior fraud LES assistants left for new opportunities, so FPU began the recruitment process for their replacements.

Given Frankfurt's role as a regional training center, the FPU regularly works with other training programs. The FPU and the DHS/CBP-IAP team leader provide fraud training to airport personnel who conduct checks for U.S. bound flights. These fraud trainings focus on U.S. entry requirements, imposter training, detection of altered documents as well passenger analysis. Recent trainings were conducted at Hamburg, Duesseldorf, Berlin and naturally Frankfurt airport. In addition, the FPU, the DHS/CBP IAP team leader, the Canadian ALO, the UK ALO and representative from German Federal Police conduct joint fraud trainings to airport personnel upon request. Likewise, LES colleagues from other posts continue to visit the FPU while in Frankfurt attending courses. Such training visits include an overview of FPU's operations, random checks, databases, trends, filing systems, archives, and intranet site.

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In December, the FPU team attended a meeting of the newly formed Frankfurt Airline Liaison Group. The group consists of the Canadian ALO, the UK ALO and Consulate representative, the New Zealand Consulate representative, the Australian Consulate representative, German Federal Police and DHS/CBP as well as the Frankfurt FPU. This time around the meeting was hosted by the Canadian ALO at the Canadian Embassy in Berlin and focused on fraud trends observed at airports throughout Germany.

FPU Examination Room continues to be used to examine documents. The centerpiece of the lab is FPU's new computer video microscope, which enlarges 25x and 50x and allows for better detection of counterfeit and/or altered documents.

The FPU remains in touch with all posts in Mission Germany regarding fraud trends. The FPM attends the monthly mission-wide Law Enforcement Working Group.

In addition, all posts have access to Mission Germany's fraud intranet site, which has up-to-date information about country fraud trends, document alerts, travel and vital documents.

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